

BEFORE THE ELECTRICITY OMBUDSMAN

(For the State of Goa and Union Territories)

Under Section 42 (6) of the Electricity Act, 2003

3rd Floor, Plot No. 55-56, UdyogVihar - Phase IV, Sector 18,
Gurugram (Haryana) 122015,

Phone No.:0124-4684708, Email ID: ombudsmanjerc@gmail.com

Appeal No.122 of 2020

Date of Video Conferencing : 22.05.2020

Date of Order: 01.06.2020

M/s SNAM Alloys Pvt. Ltd.,
Puducherry

....Appellant

Versus

The Superintending Engineer,
Electricity Department,Puducherry
and others

....Respondent

Parties present:

Appellant

1. Shri Srikanth Shivaraman-Director
2. Shri M.G.Prabhakar (Appellant Representative)

Respondent(s)

1. Shri K.Ramanathan
Executive Engineer –Rural
2. Shri Narasimman,
Executive Engineer – MRT
3. Shri Sagayam
Assistant Engineer-Operation &Mtc.
4. Shri Senthil
Assistant Engineer-MRT



Date of Order: 01.06.2020

The Appellant has preferred an Appeal against the order of the Hon'ble CGRF, Puducherry in C.C. No.16/2019 dated 23.12.2019. The Appeal was admitted on 02.03.2020 as appeal No.122 of 2020. Copy of the same as received was forwarded to the Respondents with a direction to submit their remarks/ counter reply on each of the points. A copy of counter reply was supplied to the Appellant.

(A) **Submissions by the Appellant:**

Appellant submitted the brief facts as under:-

1. M/s SNAM Alloys (P) Ltd, the complainant herein is a consumer of Puducherry Electricity Department (PED – for short) and supplied with electricity from 07.11.1996, with sanctioned Demand of 4950 KVA. The consumer has been settling the bills regularly.
2. The complainant sought the approval for Open Access procurement which was accorded with some conditions. Specifications of the meters were made known to the complainant. 3 Nos meter were procured and delivered to the licensee, Thereafter, the licensee got 2 meters connected to the circuit without actually connecting the 3rd meter for reasons best known to them. It is relevant to state that the manner of connection was not within the knowledge of the consumer nor at the instance of consumer. Copy of the said communication and the meter purchase invoice is produced and marked as Annexure – 10 (collectively).



3. The installation is provided with ABT meter along with a check meter. In the month of February, Consumer noticed variations of 0.80% in KVAh & kWh reading and variation of 2% on KVA reading in respect of energy consumption for the month of January. By a letter Dt 09.02.2018 addressed to SE-III, the discrepancy was brought to the notice, with a request to arrange for Meter Testing and correction the defect (Annexure-2) followed by letters Dt. 04.04.2018 (Annexure-3) and Dt. 06.06.2018 (Annexure-4).(Emphasis supplied.) and Dt.08.09.2018 (Annexure-5).
4. The main ABT meter was tested on 20th September, 2018 and replaced on 02nd January, 2019, retaining the check meter (Standby meter according to PED). It is relevant to state that the check meter was not required to be changed and the same was restrained. However, the test report in respect of defective meter was not provided to the complainant.
5. It is submitted that it was required of the licensee to generate Meter Testing Result Report as per Annexure-XI of JERC for the State of Goa and UT's- Draft Electricity Supply Code Regulations 2018 (Copy enclosed and marked as Annexure-5)
6. On 19.12.2018, through a letter bearing No. SNAM/ELECTRICITY/ P-181/2018-19 addressed to Superintending Engineer-1, complainant claimed a sum of Rs.29,53,889/-being the difference in energy charges as per prevailing tariff. Computation sheet is produced and marked Annexure-6.



7. Aggrieved by inaction of Respondent Licensee, in not refunding amounts held in excess of actual consumption charges, a complaint was filed before the CGRF. Copy of the complaint is produced and marked Annexure-7.
8. The complaint came to be heard on June 6, 2019 and the Forum was pleased to pass an interim order directing the respondents to have the meter tested. Copy of the interim order is produced and marked as Annexure-8.
9. The complaint was heard finally by CGRF on 26th November, 2019 and the impugned order was passed on 03.12.2019.

Grounds

- (A) The licensee is governed by the Regulations issued by the Commission Viz. The Joint Electricity Regulatory Commission for the State of Goa and Union Territories (Open Access in Transmission and Distribution) Regulations, 2009 and JERC (Connectivity and Open Access in Intra-State Transmission and Distribution) Regulation, 2017.
- (B) Further, the Act provides for metering under S-55 and governed by Regulations issued by and Authority under sub-section S-55 viz. Central Electricity Authority (CEA for short).
- (C) CEA has issued Regulation viz. Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 [Publisher in the Gazette of India, Extraordinary on 22.03.2006]
- (D) Further it is submitted that the JERC has issued Regulation governing Open Access Transaction Viz. **JERC (Connectivity and Open Access in Intra-State Transmission and Distribution) Regulation, 2017.**



- (E) In the present controversy the respondent licensee cannot take opposite stand in respect of placing reliance on the accuracy and correctness of the meter under the pretext that the meter was 'standby' meter and the readings can be relied only in the case of failure of both Main Meter and Check Meter. In fact, **JERC (Connectivity and Open Access in Intra-State Transmission and Distribution) Regulations, 2017** (herein after referred to as 'Regulations') vide clause 8 and 10, provides only for Main Meter and a Check Meter and **NOT** 'Standby meter'. However, PED chose to designate the meter as 'Standby Meter' for reasons best known to them. Also, respondent failed to replace the meter immediately as mandated in the said regulation. In fact the Standby meter has been found to be recording correctly on more than one occasion. Presently, the meter which was termed as Stand by meter is installed as main meter and functioning within the prescribed limits of error (in relation to another meter connected to the same circuit). A situation would arise only when there were three meters, two connected to the same core of CT and VT and the third was connected to different CT and VT and therefore as such could be designated as 'Standby Meter'. In any case the standby meter is not for cosmetic purpose and has a definite technical and legal requirement of serving as a measuring device whose recording is valid and binding in the event of failure of two meters Viz. Main Meter and Check Meter. If for some reason the argument of the licensee to the contrary was to be admitted, the evidentiary value of the readings of so called standby meter would defeat the very purpose of having two or more meters. (Emphasis supplied) Also in the case of **M/s Badri Kedar Paper Pvt. Ltd Vs. U.P.Electricity Regulatory Commission, Civil Appeal No-7433 of 2008**, it was held by Apex Court that party to the dispute cannot take opposing stands in the same matter..
- (F) Interestingly the dismantled meter was not handled in the manner specified under **"Joint Electricity Regulatory Commission (Electricity Supply code) Regulations, 2010"**
- (G) It is submitted that the closing reading of the meter at the time of dismantling the meter from consumer premises and reading noted at the testing



laboratory have difference – about 8000kWh which leads to an inevitable inference that the meter had lost its evidentiary value.

In this regard complainant would rely upon the judgment of Hon'ble Supreme Court of India in **Bombay Electric Supply & ...Vs. Laffans (India) Pvt. Ltd &Anr Appeal (civil) 3615 of 1996.**

(H) In the light of discussions in the preceding paragraphs it becomes very evident that the licensee failed to comply with the provisions of:

1. *Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006*
2. *JERC (Connectivity and Open Access in Intra-State Transmission and Distribution) Regulations, 2017.*
3. *Joint Electricity Regulatory Commission, (Standards of Performance) Regulation, 2009.*
4. *Joint Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2010.*

(I) It is submitted that the learned Forum failed to notice several non-compliance of the licensee, delays in attending to the complaint of the consumer even when the same was clearly brought out in the complaint as well as in the rejoinder filed by the complainant. Further the Forum failed to consider the material evidence produced by the complainant.

(J) Therefore it is prayed that this Hon'ble Authority be pleased to grant the following reliefs in the justice and equity.

PRAYER

1. To summon the records on CGRF file in consumer case no. 16 of 2019.



2. To declare that order of respondent CGRF illegal and set aside the order in consumer favour .
 3. To direct the respondents to refund principal amount of Rs. 29,53,889/- held in excess of actual energy charges as claimed.
 4. To direct the respondents to pay interest at SBI base rate for the amount held in excess for the entire period up to and inclusive date of refund on the principal amount of Rs. 29,53,889.00
 5. To award such other reliefs as may be deemed appropriate by this authority in the facts and circumstance of the representation in the interest of justice.
- (K) The video conferencing was held on 22.05.2020 and Appellant was further given an opportunity to submit his defense (if any) in support of Jurisdiction of CGRF to hear present case within 7 days positively.
- (L) Accordingly the Appellant has submitted his defence on 27.5.2020, regarding maintainability of present Appeal as under :-
- a) The complaint matter relates to erroneous recording of the meter wherein the readings of two meters were having a variation beyond the permissible limit.
 - b) Cause of action arose in the month of November, 2017 when the discrepancy in the meter reading was noticed by the complainant and the same was brought to the notice of Assistant Engineer in the first instance. Copy produced as an attachment marked Annexure-1
 - c) This was followed by series of letters on February 9, 2018 (Annexure -2, at page 23), April 4, 2018 (Annexure -2 at page 25),



June 5, 2018(Annexure -4, at page 27), September 8, 2018, (Annexure -5, at page 29).

- d) Finally, on 19thDecember,2018 by a letter to Superintending Engineer -1, a claim for Rs. 29,53,889.00 was submitted along with detailed calculations based on the meter readings(Annexure -6 at pages 38 to 53).**The authenticity of the meter readings and documents submitted has not been disputed by PED any time during the proceedings before CGRF.**(Emphasis supplied)
- e) As can be seen form the above the dispute is between the PED and the complainant in respect of defective meter and **has no nexus with energy procured under open Access provision even remotely for the reason that the amounts payable by the complainant was in respect of energy supplied be PED and not energy procured under Open Access arrangement.**(Emphasis supplied).
- f) Further it is submitted that the dispute squarely falls under Cl.7.5 of JERC(Electricity Supply Code) Regulations 2010 read with JERC Standards of Performance Regulations 2015, JERC (Establishment of Forum for Redressalof Grievances of Consumer) Regulations 2009 and Central Electricity Authority (Installation and Operation of Meters) Regulations,2006.
- g) The nature of complaint is a billing dispute arising out of erroneous recording in the meter falling within the meaning of 'Complaint' under clause 2(1)(e) of JERC CGRF Regulation 2009.



- h) Also, the above dispute is not falling under S-126, S-127, S-135 to S-139, S-142, S-143, S-149, S-152 and S-161 of the Act which are specifically jurisdiction barred.
- i) It is humbly submitted that **NO dispute** has arisen between the parties to OA agreement.
- j) Further, it is also submitted that **no dispute** has arisen in respect of Open Access Charges payable to PED as provided under **Regulation 16, 17, 18 & 19 of OA Regulations, 2009**. Therefore adjudications provided under 'Redressal Mechanism' in terms of Cl. 28 of OA Regulations 2009 is not attracted in the present controversy.

In the light of the facts and the legal provisions applicable to the dispute enumerated in the preceding paragraphs, it is humbly prayed that the authority may be pleased to admit our representation and grant reliefs as requested in the interest of justice and equity.

(B) **Submissions by the Respondents :**

The Executive Engineer-Rural South O&M, on behalf of Superintending Engineer-Cum HOD, respectfully submit the following for the consideration :-

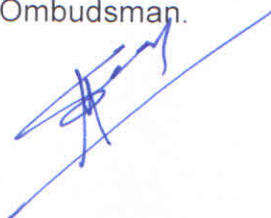
1. I respectfully submit that the appellant is a HT consumer bearing consumer code: 297 with CMD 4950 KVA stands in the name of M/s Snam Alloys Pvt. Ltd.
2. I respectfully submit that ABT meters having class of accuracy 0.2s were fixed at both main meter (L&T make, Sl. No. 15196448) & standby meter (L&T make, Sl. No. 15196449) on 08-11-2016 in order to avail the facility of

short term open access by the consumer. Above meters have been purchased by the appellant and tested by third party agency, accredited by NABL. Each meter has been fixed with separate CT-PT cubicle having same CT & PT ratios and class of accuracy.

3. I respectfully submit that based on the representations dt. 09-02-2018 & 04-04-2018 received from the complainant about reading variation in main and standby meters, metering installations at the Main & standby arrangements were tested at site on 03-05-2018 by HT Metering Sub-Division of the Electricity Department. On the same day, for the study purpose, one tested new DLMS meter having class of accuracy 0.5s, available in the department was fixed temporarily in series with the Main meter.
4. I respectfully submit that performance tests on the recording of the above meters were again conducted with actual load of the industry on 20-09-2018 by HTMetering wing and observed that the percentage errors are within the limits for the standby meter(L&T 15196449) and for the meter (Secure X0280224) fixed temporarily in series with the main meter. Percentage error on the recording of the main meter (L&T 15196448) is higher than its limits. Due to non-availability of same class of accuracy meter (0.2s) in the department, main meter could not be replaced immediately. Temporarily fixed meter (Secure X0280224) was removed from its location.
5. I respectfully submit that on 02-01-2019 existing main meter (L&T make, SI. No. 15196448) was released and taken to the custody of HTMetering sub-division and existing standby meter (L&T make, SI. No. 15196449) was released and fixed at the main meter location. One tested DLMS meter (Secure make, SI. No. X0280224, 0.5s) was fixed at the standby location.
6. In the meantime, the appellant moved to the CGRF and filled case No.16/2019 on 1-3-2019 claiming to refund the excess amount billed on energy and MD charges amounting to Rs. 29,53,883/-



7. I respectfully submit that above HT service connection yard was again inspected by HT Metering wing on 13-03-2019 to conduct on site performance test on the released dispute meter(L&T make, Sl. No. 15196448) in actual load condition and in ideal test condition in the presence of the complainant representatives. Performance test was conducted by HT Metering wing on the in-service Main meter (L&T make, Sl. No. 15196449, 0.2s). % error (+0.17) observed is within the limits specified for its class of accuracy. On testing the dispute meter (L&T make, Sl. No. 15196448, 0.2s) in actual load condition at main meter location (in series with the existing meter) it was observed that the percentage error(+0.53) is higher than the limits specified for its class of accuracy. But on testing the same meter under ideal test conditions, i.e. by injecting current and voltage through Phantom load kit it was observed that the percentage error (+0.04) is well within the limits.
8. I respectfully submit that the Department filled counter affidavit to the Hon'ble CGRF on 21-3-2019 with the details of testing conducted at site by HT Metering wing. The Hon'ble Forum heard the case on 6-5-2019 and delivered Interim Order directing to test the meter in dispute in an accredited standard laboratory for ascertaining the meter performance at the cost of the consumer, directed the Assistant Engineer, HT Metering to file the additional details about the approval given by the Department for purchase of meter, test done before fixing meter and confirmation of specification of meter purchased and to submit the test report for final hearing.
9. Accordingly, the meter was tested at M/s Electronics Test & Development Centre (ETDC), Government of India, Chennai for its performance on 31-10-2019 and test report was received on 8-11-2019. Additional affidavit filled by Assistant Engineer, HT Metering before the Hon'ble CGRF on 14-11-2019. The Hon'ble CGRF delivered Final order on 23-12-2019. Aggrieved with the order of the Hon'ble Forum, the appellant filed appeal before the office of the Ombudsman.

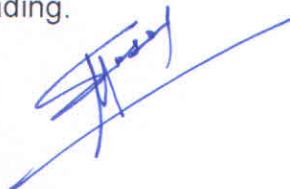


10. I respectfully submit that the test result of the standard lab reveals the performance and accuracy of the meter are within the prescribed limits and hence revision of bill does not arise.
11. I respectfully submit that at the time of fixing ABT meters on 08-11-2016, the Open Access Regulation 2009 was in force. As per the Open Access Regulation 2009, fixing of check meter is optional to the Licensee and hence no check meter was installed.
12. I respectfully submit that the appellant had not raised any objection for not fixing check meter at the time of fixing of meters to till the dispute arises.
13. I respectfully submit that the appellant had been given permission to procure two numbers of CTPT and Tri vector Meters, one for main location and another for standby location having accuracy class of 0.2s for CT & 0.2 for PT and 0.2s for Tri vector meters of 3 phase 4 wire DLMS AMR compatibility as per the Central Electricity Authority (Installation and Operation of Meters) Regulations 2006 vide letter No.143/ED/EE-VII/AE/SNAM Alloys/2014-15, dated 11-7-2014.
14. It is requested to note that in the above communication, it has been clearly mentioned that the provision of main and standby metering. Consumer was requested to procure 2 meters long with 2 Nos. of 22KV CT-PT units one for the main meter another for Standby meter and Puducherry Electricity Department do not designate on its own. It is well known fact that the purpose of providing Standby meter is for the Energy Audit by the License in order to identify any diversion of electricity by the consumer. Generally standby meter has to be located in the middle of the feeder after which no other consumer has to be supplied with electricity.
15. In the subsequent communication vide Lr.No.378/ED/EE-VII/HTM/F-Snam Alloys/2016-17 it has been clearly mentioned the purpose (to be fixed at the feeder metering panel of the feeding sub-station) of procurement of third meter with 1A and therefore the appellant has already been intimated



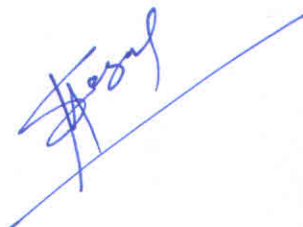
the purposes of procurement of 3 meters and the appellant not requested the Licensee for a check meter till the dispute arose.

16. Due to non-availability of MD auto reset software in the main meter Assistant Engineer/HT metering has informed to take standby meter reading for the billing till auto reset MD software is installed, as the MD KVA data was totally not available in the main meter. Thus Puducherry Electricity Department has not taken opposite stand on same occasion.
17. I respectfully submit that dispute meter was released on 02-01-2019 with all the seals provided in the meter by OEM, NABL testing agency and by the Puducherry Electricity Department intact. Intactness of the seals were thoroughly checked by the representative of the appellant while testing the dispute meter at site on 13-3-2019 and at ETDC, Chennai on 31-10-2019 and therefore raising the doubt on handling of meter is not acceptable.
18. The difference in KWh reading at the time of releasing the meter on 02-01-2019 and the initial reading at the time of testing at ETDC, Chennai on 31-10-2019 (1.43xMF 6000=8880 KWh) is because of testing of dispute meter in the presence of appellant representative at work site on 13-03-2019 at main cubicle, at standby cubicle and with Phantom load kit. And thus the meter not lost its evidentiary value.
19. I respectfully submit that the Main meter & Standby meter are connected with two different CTPT of same ratio and class of accuracy and reading of one meter cannot be compared with the other one.
20. I respectfully submit that Section 15.1 of CEA (Installation and operation of Meters) Regulations, 2006 lay down steps to be followed to check the connections, testing of meter and billing for the failure period, whenever there is difference between the reading of the Main meter & check meter for any month is more than 0.5%. Here check meter is not available and hence it is not applicable. There is no provision for comparing main meter reading with standby meter reading.



21. I respectfully submit that as mentioned at Para 7, both the meters have been connected to the same core for conducting the performance test. Difference between the percentage errors is less than 0.5. Since the difference is less than the 0.5% action to replace the meter/ to revise the bill as per the CEA regulation was not required.
 22. I respectfully submit that the HT Metering wing of the Department conducted tests continuously in frequent intervals on various combinations provisions under the CEA (Installation and Operation of Meters) Regulations 2006.
 23. I respectfully submit that one more meter, 3 ph, 4 wire, 1 Amps, 0.2s supplied by the appellant has been returned by the HT Metering wing as directed by the CGRF.
 24. I respectfully submit that considering all the above facts, there is no grounds to revise the bill and hence no excess billing was done.
 25. Therefore the respondent humbly prays the Hon'ble Forum to pass order in this regard and render justice.
 26. The video conferencing was held on 22.05.2020 and Respondents were further given an opportunity to submit their defense (if any) in support of Jurisdiction of CGRF/maintainability of present Appeal, within 7 days positively, however respondents have not filed any submission.
- (C) **CGRF order dated 23.12.2019, preferred for Appeal:**
- Consumer Grievances Redressal Forum, Puducherry in its order dated 23.12.2019 has decided as under:-

ORDER



“

In view of the detailed reasons furnished in the observations the Complaint is not allowed on the grounds that:

- (i) The performance of the meter is within the prescribed limits i.e. the accuracy error of the meter is within the permissible limits.
- (ii) There is no provision to consider the difference of recording between the main meter and the standby meter for revision of bill. Since they are connected to different C.T's core.
- (iii) The third energy meter supplied by the Complainant / Consumer which is not in use shall be handed over to the consumer immediately.
- (iv) The Complainant is at liberty to prefer an appeal against this Order before the Ombudsman, Joint Electricity Regulatory Commission for the state of Goa and Union Territories, 3rd and 4th Floor, Plot No. 55-56, Pathkind Lab Building, Sector -18, Udyog Vihar - Phase IV, Gurugram, (122015) Haryana within 60 days from the date of receipt of copy of this Order under intimation to this Forum and the Respondents.
- (v) A report on compliance shall be submitted by the Respondents to this Forum within 15 days from the date of receipt of this Order.
- (vi) Non-compliance with the directions of Forum by the Licensee shall attract remedial action under Sections 142 and 146, read with Section 149 of the Electricity Act 2003.



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(D) Deliberations during Video Conferencing :

1. **Appellant submission:**

- a. The Appellant reiterated their version as submitted in appeal.
- b. Mr. Srikanth Shivaraman, Director of M/s SNAN Alloys confirmed that he is an Open Access consumer , though he is not availing the same for the last two years but he can avail Open Access at any time after giving notice as required as per Open Access Regulations.
- c. On being asked to first clearly specify the Regulations, which governed this case, it was agreed that following Regulations are applicable as per Appellant as explained in Para-(A(H)) above.
 - (i) JERC (Open Access in Intra state Transmission and Distribution) Regulations-2009 and amendments thereof.
 - (ii) JERC (Connectivity and Open Access in Intra state Transmission and Distribution) Regulations, 2017 and amendments thereof.
 - (iii) Central Electricity Authority (Installation and Operation of meters) Regulations, 2006 and amendments thereof.
 - (iv) JERC (Standard of Performance for Distribution Licensees) Regulations, 2015 and amendments thereof.
 - (v) JERC (Electricity Supply Code) Regulations, 2010 and amendments thereof.



- d. On being asked that as per Open Access Regulations of 2009 and 2017, the CGRF has no Jurisdiction to adjudicate this case, Mr. MG Prabhakar, reiterated his stand that this is a metering dispute and is covered under JERC Supply Code and Standard of Performance Regulations.
- e. Appellant was further given an opportunity to submit his defense (if any) in support of Jurisdiction of CGRF to hear present case within 7 days positively.
- f. Accordingly the Appellant has submitted his defence on 27.5.2020, regarding maintainability of present Appeal.

2. Respondent submission:

- a. The respondents reiterated their version as submitted in reply to the appeal and requested to dismiss the appeal.
- b. They further stated that they also agree that Regulations specified in Para – (D)(c) as above are applicable to the present case.
- c. On being asked, if they have taken the plea regarding Jurisdiction of CGRF to adjudicate this case, as per Open Access Regulations of 2009 and 2017, respondents stated that they have not taken such defense before CGRF.
- d. Respondents were also given an opportunity to submit their defense (if any) in support of Jurisdiction of CGRF/maintainability of present Appeal within 7 days positively, however the Respondents have not filed their defence.



(E) Analysis & Observations:-

1. I have perused the documents on record and pleadings of the parties.
2. Following provisions had been provided in the Regulations notified by Hon'ble Commission called JERC (Open Access in Intra state Transmission and Distribution) Regulations-2009 and amendments thereof:--

“28 - Redressal Mechanism

- (i) All disputes and complaints relating to open access shall be made to the State Load Dispatch Centre, which may investigate and endeavor to resolve the grievance within 30 days.
- (ii) Where State Load Dispatch Centre is unable to resolve a grievance, State Grid Code Review Committee constituted under State Grid Code shall endeavor to resolve the grievance within 30 days, and
- (iii) Where State Grid Code Review Committee has not been constituted or is unable to resolve the grievance in the time period specified above, the grievance shall be referred to the Commission.
- (iv) The responsibilities assigned to State Load Dispatch Centers for formulation of procedures, guidelines and application forms under these regulations shall be coordinated by the State Transmission Utility.

3. Following provisions have been provided in the Regulations notified by Hon'ble Commission called JERC (Connectivity and Open Access in



Intra state Transmission and Distribution) Regulations-2017 and amendments thereof :-

“ 9.5 Dispute Resolution”

All disputes and complaints arising under these regulations shall be decided by **Nodal Agency** within a period of 30 days from the receipt of application from the concerned party. Appeal against the decision of Nodal Agency shall lie with the Commission. The decision of the Commission shall be final and binding.

4. The **“Nodal Agency”** means the Nodal Agency as defined in Clause - 3.2 of the JERC (Connectivity and Open Access in Intra state Transmission and Distribution) Regulations, 2017.
5. Following provisions have been provided in the Agreement/Regulations notified by Hon'ble Commission called JERC (Solar PV Grid Interactive System on Net Metering) Regulations-2019 and amendments thereof:-

“Annexure-3- Model Net Metering Connection Agreement ”

“10. Dispute Resolution”

- 10.1 Any dispute arising under this agreement shall be resolved promptly ,in good faith and in an equitable manner by both the Parties.



10.2 Disputes pertaining to billing and payments and metering shall be referred to the Consumer Grievances Redressal Forum (CGRF) and then to the Ombudsman appointed under Sub-Section 6 of Section 42 of the Act for settlement, in case the same is not resolve at CGRF.

A perusal of the above provisions explicit make it clear that Hon'ble Commission has framed separate Regulations for Special category of consumers such as Open Access Consumers and Solar Prosumers. Therefore general Regulations governing other consumers are not applicable to the Open Access consumers, as they are governed by JERC (Connectivity and Open Access in Intra state Transmission and Distribution) Regulations-2017 and it has been specifically provided under Clause-9.5 of these Open Access Regulations that all dispute and complaints shall be decided by **Nodal Agency** and thereafter by **Hon'ble Commission**.


In view of above analysis, the CGRF or the Ombudsman has no jurisdiction to hear any dispute and complaint of Open Access Consumers as specific provision under clause 9.5 under heading "**Dispute Resolution**" has been notified by 'Hon'ble Commission in JERC (Connectivity and Open Access in Intra state Transmission and Distribution) Regulations, 2017. The CGRF has completely lost sight of this provisions and erred in passing order dated-23.12.2019.

(F) DECISION

- (i) For the reasons discussed above, the order passed by Hon'ble CGRF Puducherry , dated - 23.12.2019 in CC No-16/2019 is hereby set aside.



- (ii) Since the said order dated-23.12.2019 passed by Hon'ble CGRF has been quashed for lack of jurisdiction, therefore I do not propose to take up the other grounds raised by Appellant/Respondents in this Appeal.
- (iii) The Appellant is at liberty to approach the competent authority as per JERC (Connectivity and Open Access in Intra State Transmission and Distribution) Regulations, 2017 for redressal of his grievances .
- (iv) In case , the Appellant or the Respondent is not satisfied with the above decision , they are at liberty to seek appropriate remedy against this order from the appropriate bodies in accordance with Regulation 37(7) of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations-2019.
- (v) The appeal is disposed of accordingly.



(M.P. Singh Wasal)

Electricity Ombudsman

For Goa & UTs (except Delhi)

Dated 01.06.2020